

HOUSE No. 1534

By Mr. Marzilli of Arlington, petition of J. James Marzilli, Jr., and Byron Rushing relative to voting and other rights of mutual insurance policyholders and increasing the accountability of mutual insurance companies. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT TO REFORM VOTING AND OTHER RIGHTS OF MUTUAL POLICY-
HOLDERS TO MAKE MUTUALS MORE ACCOUNTABLE TO THEIR OWNERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 175 of the General Laws is hereby
2 amended by striking out Section 94 in its entirety and inserting in
3 place thereof the following section:—
4 Section 94. Except as provided in this section and in sections
5 thirty-six, one hundred and thirty-two D and one hundred and
6 thirty-seven, every person insured under a policy of life or endow-
7 ment insurance issued by a domestic mutual life company shall be
8 a member thereof and entitled to one vote, and except in the case
9 of a policy of life or endowment insurance which is a contract on
10 a variable basis, one vote additional for each five thousand dollars
11 of insurance in excess of the first five thousand dollars, every
12 person holding an annuity or pure endowment contract issued by
13 any such company shall be a member, and thus an owner thereof
14 and entitled to one vote and., except in the case of an annuity con-
15 tract which is a contract on a variable basis, one vote additional
16 for each one hundred and fifty dollars of annual annuity income in
17 excess of the first one hundred and fifty dollars, and, except as
18 provided in section one hundred and ten, every person insured
19 under any policy of insurance issued by any such company under
20 clause six of section forty-seven shall be a member and thus an
21 owner thereof and entitled to one vote. Holders of such policies or
22 contracts shall be notified annually of the annual meetings of the

23 company by written notice, and shall also be imprinted in the form
24 prescribed by section seventy-six upon the filing back of its poli-
25 cies or contracts, or, in the case of policies upon which premiums
26 are payable monthly or oftener, on some other prominent place on
27 each policy, and also upon premium receipts or certificates or
28 renewal.

29 A notice shall be mailed to each member, at least sixty days
30 prior to the annual meeting. Notice shall include the agenda, cor-
31 porate resolutions and nominations for the board of directors. The
32 notice will include a proxy statement, and indicate how members
33 may order and obtain without cost to them financial and other cor-
34 porate information germane to the company's operations and gov-
35 ernance prior to the meeting. The notice shall also contain an
36 explanation of member procedures for proposing agenda items,
37 resolutions, nominations for the next meeting, all of which shall
38 be made possible under the by-laws.

39 Nominations to the Board of Directors shall be made in accor-
40 dance with company by-laws which must provide a reasonable
41 and accessible mechanism through which members who are not
42 employees or officers of the company may propose nominations
43 and by which those nominations may be considered by members.
44 To assist in this process, the by-laws shall establish a nomination
45 committee of fifteen members who shall be selected randomly
46 from the membership in a process conducted by an outside
47 auditor, none of whom may be employees, agents or board mem-
48 bers of the company and all of whom must have been policy-
49 holders for each of the last three or more years and who agree to
50 serve for staggered two-year terms. The total number of nomina-
51 tions to the board of directors must be equal to at least two times
52 the number of vacancies which, at the time of nomination, it is
53 anticipated will be required to be filled. Nominations of one or
54 more candidates may also be made in each year by petition of 5
55 percent of the number of non-employee members attending the
56 last annual meeting or 25 members who are not employees of the
57 company, whichever is less. Members and guarantee capital share-
58 holders may vote by proxies dated and executed within three
59 months and returned and recorded on the books of the company
60 on the day of the meeting at which they are to be used; but no
61 member or guarantee capital shareholder of such a company shall,

62 in person, or by proxy, cast more than twenty votes. Annual meet-
63 ings must satisfy a quorum requirement excluding proxies of at
64 least 1 percent or 1,000 members who may not be employees of
65 the company, whichever is less. The company must file with the
66 commissioner within 30 days of the annual meeting, a report
67 demonstrating compliance with this provision to include the total
68 attendance and total vote count, in person and by proxy, and the
69 total number of members eligible to vote. The report must also
70 include the results of the elections for the board of directors, any
71 resolutions and the meeting minutes. After the first election, the
72 directors shall be chosen by and from the policyholders; provided,
73 that in case of a company having outstanding a guaranty capital,
74 up to a maximum of one third of the directors may be chosen by
75 and from the stockholders thereof in direct proportion to the value
76 of the guaranty capital to the total assets of the company. No
77 person shall be qualified to serve as a director after he ceases to
78 be such a policyholder or stockholder, as the case may be. The
79 provisions of section sixty shall apply to the officers of every such
80 company, and the provisions of the second and third paragraph of
81 section seventy-seven shall apply to every such company. The
82 second and third paragraph of section seventy-eight shall apply to
83 every such company.

1 SECTION 2. Section 76 of Chapter 175 of the General Laws is
2 hereby amended by striking out the paragraph that begins with the
3 words, "Members may vote by proxies...", and inserting in place
4 thereof the following:—

5 The second, third, fourth and fifth paragraphs of section ninety-
6 four shall apply to every such company.

1 SECTION 3. Chapter 175 of the General Laws is hereby
2 amended by striking out Section 77 in its entirety and inserting in
3 place thereof the following section:—

4 Section 77. The number of the board of directors of every such
5 company and requirements for eligibility, if any, shall be fixed by
6 or determined in the manner provided in the bylaws but shall not
7 be less than seven, and not less than five shall constitute a
8 quorum. Such companies having a guaranty capital shall choose

9 up to one-third of directors according to the provisions in the fifth
10 paragraph of section ninety-four of this chapter.

11 Directors shall hold office for one year or for the term provided
12 in the bylaws, and until their successors are qualified. The bylaws
13 of such a company may divide its board of directors into one, two,
14 three or four classes, and provide for the election thereof in such
15 manner that one class only shall retire and their successors be
16 chosen each year. Special meetings of the members of such a com-
17 pany may be called by the directors, or as the bylaws may pro-
18 vide, and shall be called by the secretary, or in case of the death,
19 absence, incapacity or refusal of the secretary, by any other officer
20 upon written application of members numbering at least five per-
21 cent of the number of non-employee members who attended the
22 last annual meeting or one-half of one percent of the members,
23 whichever is less, or the owners of one-fifth of the guaranty cap-
24 ital, upon such notice as the bylaws provide, as long as it is mean-
25 ingful notice, and, in case none of the officers is able and willing
26 to call a special meeting, the supreme judicial court or superior
27 court, upon application of non-employee members numbering at
28 least five percent of the number of members who attended the last
29 annual meeting or one-half of one percent of the members,
30 whichever is less,- or the owners of one-fifth of the guaranty cap-
31 ital, shall have jurisdiction in equity to authorize one or more of
32 such members or stockholders to call a meeting by giving such
33 notice as is required by law.

1 SECTION 4. Chapter 175 of the General Laws is hereby
2 amended by striking out Section 188 in its entirety and inserting
3 in place thereof the following section:—

4 Section 188. A paid officer of a domestic mutual company who
5 asks for, receives or procures to be obtained or uses a proxy to
6 vote in violation of any provision of section seventy~six or
7 ninety-four shall be punished by a fine of five thousand dollars for
8 each vote so sought or procured.